

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

UNITED STATES OF AMERICA, : Docket No. 7:12-CR-00079-D

4 Plaintiff, : Raleigh, North Carolina
5 v. : Monday, June 25, 2012
5 : 12:53 a.m.

6 HARRY DEAN CANADY, :

7 | Defendant. :
|

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TRANSCRIPT OF DETENTION HEARING
BEFORE THE HONORABLE JAMES E. GATES,
UNITED STATES MAGISTRATE JUDGE

12 | APPEARANCES:

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of America: United States Attorney's Office
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P R O C E E D I N G S

2 (Call to Order of the Court)

3 THE COURT: The next case before the Court is that of
4 United States versus Harry Dean Canady. This matter is before
5 the Court for a detention hearing. I do not believe this is a
6 presumption case based on the charges against Mr. Canady.

7 So, Ms. Rangarajan, I'll be happy to hear any evidence
8 the Government cares to offer.

9 MS. RANGARAJAN: Thank you, Your Honor.

10 Your Honor, the Government calls Special Agent Miles
11 Davis.

12 MILES DAVIS, GOVERNMENT'S WITNESS, SWORN

13 THE COURTROOM DEPUTY: Thank you. Have a seat. And
14 please state your name for the record.

15 THE WITNESS: Miles Brennan Davis.

16 DIRECT EXAMINATION

17 BY MS. RANGARAJAN:

18 Q Good afternoon, sir.

19 Would you please tell the Court how you're currently
20 employed?

21 A I am a special agent with the United States Department of
22 Agriculture-Office of Inspector General Investigations, out of
23 Raleigh, North Carolina.

24 Q And how long have you been an agent with USDA-OIG?

25 A Since June of 2008.

1 Q Prior to that, what did you do?

2 A From 1988 to the, to June of '08, I was employed by the
3 United States Department of Agriculture-Farm Service Agency in
4 various capacities.

5 Q As a special agent with USDA-OIG and based on your prior
6 experience with the Farm Service Agency, are you familiar with
7 the crop insurance, the federal crop insurance program?

8 A Yes.

9 Q Would you please briefly describe the nature of the program
10 to the Court?

11 A Federal crop insurance is a federal program designed to
12 cover unavoidable losses for farmers who grow various crops.
13 The, the insurance program is a federal program, but it's
14 actually administered through private insurance companies
15 through what's called a standard reinsurance agreement that
16 they enter into with the Government.

17 Q If a farmer sustains a loss, applies for coverage, who
18 ultimately is paying for that benefit?

19 A The taxpayers.

20 Q In terms of the federal crop insurance program, when the
21 farmer, when a farmer signs up for insurance, do they authorize
22 or is part of their insurance policy agreed to allowing agents
23 onto their property for purposes of inspecting crops and
24 evaluating records in connection with claims?

25 A Yes.

1 Q And that's part of the policies, correct?

2 A Correct.

3 Q Would you -- during the course of your employment as a
4 USDA-OIG agent, have you been involved in the investigation of
5 crop insurance fraud in the Eastern District of North Carolina?

6 A Yes.

7 Q During the course of that investigation, did you receive
8 information regarding the defendant, Harry Dean Canady?

9 A Yes.

10 Q In connection with fraud?

11 A Yes.

12 Q What is the nature of Harry Dean Canady's work? What does
13 he do for a living?

14 A Mr. Canady's a farmer in Lumberton, North Carolina.

15 Q As a farmer in Lumberton, North Carolina, has he
16 participated in the federal crop insurance program?

17 A Yes.

18 Q And in connection -- have you reviewed his policies?

19 A Yes.

20 Q And in connection with those policies, did he agree to
21 allow agents onto his property to inspect crops and review
22 records in connection with any claim under the program?

23 A By nature of the agreement of crop insurance and various
24 signatures, yes.

25 Q What is the nature of the, the nature of the fraud that is

1 charged in the indictment against the defendant?

2 A Regarding crop insurance fraud, it revolves around the, the
3 hiding or the hidden production of crop sales from the crop
4 insurance claim. As production is hidden or not reported on a
5 claim, therefore, the claim is increased.

6 Q In order -- when a farmer seeks benefits under the program,
7 basically files a claim, an insurance claim, he or she must
8 declare what they harvested for that crop that past --

9 A Correct. All production for the insured crop must, all
10 acres and production must be accounted for.

11 MR. NEYHART: Your Honor, I would object to the
12 leading nature of that question.

13 THE COURT: Objection overruled.

14 I'll just note for the record I've -- I've -- I think
15 it's appropriate to put this evidence, this background
16 information about the crop program -- the farm -- crop
17 insurance program on the record. I have reviewed the
18 indictment. I'm not trying to cut short, Ms. Rangarajan, what
19 you're doing, but I think it is in the nature of background
20 information.

21 So I am overruling the objection.

22 MS. RANGARAJAN: Thank you, Your Honor.

23 BY MS. RANGARAJAN:

24 Q What are the natures of the allegations as it relates to
25 the defendant's acts in connection with crop insurance

1 applications?

2 A Selling crop production in other people's names and/or for
3 cash in order to, and not reporting that production on crop
4 insurance claims, therefore, having false crop insurance
5 claims.

6 Q During the course of this investigation, did you examine
7 the defendant's production records and reports that he made to
8 the Government in connection with his insurance --

9 A Yes.

10 Q -- claims?

11 A Yes.

12 Q Have you also subpoenaed and reviewed records submitted by
13 the defendant to Cape Fear Farm Credit?

14 A Yes.

15 Q And in those documents submitted to Cape Fear Farm Credit
16 what type of information does the defendant provide regarding
17 crop production?

18 A In both Cape Fear Farm Credit and crop insurance, acres and
19 production are reported; however, more production in several
20 years and several crops are reported by Cape, to Cape Fear Farm
21 Credit than was reported to the federal crop insurance program.

22 Q Can you describe by way of example to the Court one
23 instance that you noticed in connection with your review of the
24 documents?

25 A Yes.

1 In 2007, regarding a corn claim, Mr., the production
2 reported to federal crop insurance equaled approximately 18 to
3 19 bushels per acre on approximately 480 acres of corn.

4 That -- under the Cape Fear Farm Credit records, indicated an
5 average yield of 55. The county --

6 Q Fifty-five bushels per acre?

7 A Fifty-five bushels per acre. The county average that year
8 was approximately 67. The review of various corn sales in
9 Mr. Canady's name and other, and in another name, those total
10 sales that we've, production that we found averaged 68 bushels
11 per acre for 2007 corn.

12 Q And in terms of the sales by the defendant in other
13 people's names, what evidence do you have that supports that?

14 A Production records obtained from various grain-buying
15 dealer, grain buyers, bank records. We have checks in other
16 people's names that are deposited into Mr. Canady's bank
17 accounts.

18 Q Okay. So in connection with this one example of the 2007
19 corn crop, defendant filed a claim for indemnity, is that
20 correct?

21 A Correct.

22 Q And do you know approximately how much the Government paid
23 him based on his allegations of a loss that year?

24 A My memory is it's approximately 75 to 80,000.

25 Q And had he reported -- well -- and based upon your

1 testimony, he reported to Cape Fear Farm Credit that he
2 actually harvested 55 bushels per acre, not the 18.6 that he
3 declared to the Government?

4 A Correct.

5 Q And in connection with -- had he reported that acreage,
6 that, that harvest correctly to the Government, would he have
7 received the 75 to \$80,000 in indemnity?

8 A The claim would have been dramatically reduced. I'm, I'm
9 not confident whether it would have reduced it all the way to
10 zero, but most likely, it would have reduced it to zero.

11 Q But he clearly obtained a benefit to which he was not
12 entitled based on the Cape Fear Farm --

13 A Yes.

14 Q -- records?

15 A Yes.

16 Q And when you looked at the crop for just the 2007 corn
17 year, you looked at the crop sold in other people's names by
18 the defendant, the production records. That amount, was that
19 consistent with the county average?

20 A All production produced by Mr., Mr. Canady equaled 68
21 bushels per acre. The county average was 67.

22 Q Not 18.6 as he declared to the United States --

23 A Correct.

24 Q -- through his crop insurance?

25 And did you see this pattern in connection with his crop

1 insurance for 2006, 2007, 2008, and 2009?

2 A Yes.

3 Q With respect to corn --

4 A Yes.

5 Q -- did you see that pattern?

6 How about wheat?

7 A Yes.

8 Q How about soybean?

9 A Yes.

10 Q And how about tobacco?

11 A Yes.

12 Q So same pattern with all of his crops during those years?

13 A Yes.

14 Q Now in June of 2000, June 25, 2008, during the course of
15 this investigation, did a special agent with the USDA-OIG go
16 out to the defendant's farm to inspect the crops and review
17 records in connection with the ongoing fraud case?

18 A Yes. Special Agent Don Doles, who is currently retired and
19 was the case agent initially, went out to visit Mr. Canady and
20 to inquire of him of the ongoing investigation.

21 Q During the course of that -- did the -- did Special Agent
22 Doles actually make contact with the defendant during that
23 visit in June of 2008?

24 A Yes.

25 Q During the course of that visit, what, if any, threats did

1 the defendant make to Special Agent Don Doles?

2 A Mr. --

3 MR. NEYHART: I'm going to object, Your Honor. I
4 don't think there's foundation laid for the basis of any of his
5 knowledge of any threats.

6 MS. RANGARAJAN: Your Honor, hearsay's admissible at
7 these proceedings.

8 THE COURT: It is admissible. If you could just
9 inquire as to how he knows of what might or might not have been
10 said during this visit.

11 BY MS. RANGARAJAN:

12 Q Special Agent Davis, in preparing -- during the course of
13 this investigation from 2008 forward, have you had
14 conversations with Special Agent Doles about what took place
15 during the 2008 contact with the defendant?

16 A Yes.

17 Q So is the information -- is the testimony you're about to
18 present to the Court based upon your conversations with Special
19 Agent Doles?

20 A It's based upon my conversations and the reading of his
21 Memorandum of Interview.

22 Q Okay. During the --

23 MS. RANGARAJAN: Your Honor, may I proceed then?

24 THE COURT: You may.

25 BY MS. RANGARAJAN:

1 Q During the course of that June 25, 2008 meeting of Special
2 Agent Doles with the defendant at the defendant's property,
3 what, if any, threats did the defendant make to Special Agent
4 Doles?

5 A Mr. Canady accused Agent Doles of harassing him and
6 trespassing onto his property and he threatened to go get his
7 gun.

8 Q Did Special Agent Doles identify himself before that?

9 A Yes.

10 Q As a USDA-OIG agent, under the crop insurance policy did
11 Special Agent Doles have the authority to be on that property?

12 A Yes.

13 Q The defendant had consented to that, correct?

14 A Yes.

15 Q At a subsequent time, what, if any, admissions did the
16 defendant make to you about that incident?

17 A In the fall of 2010, in a meeting here in this building,
18 Mr. Canady acknowledged -- I was standing there -- but he
19 acknowledged to Investigator Paul Lett (phonetic), who was also
20 with Agent Doles, admitted that he said "You're the one I
21 showed my piece to."

22 Q What do you understand "piece" to mean?

23 A To be a firearm.

24 Q During the course of this investigation were there
25 consensually monitored phone recordings with the defendant?

1 A Yes.

2 Q And during the course of those consensually monitored phone
3 recordings what, if any, admissions did the defendant make
4 regarding that June 28, the June 25, 2008 meeting?

5 A The, the recording reveals that Mr. Canady acknowledged
6 having pulled a gun on the agent who had visited his farm
7 previously.

8 Q In November of 2010, a search warrant was sought and,
9 sought and executed on the defendant's property and person, is
10 that correct?

11 A Yes.

12 Q Prior -- and that search warrant dealt with -- what were
13 you -- what had you sought permission to seize, search and
14 seize for?

15 A Firearms and similar ammunition to go with firearms.

16 Q Prior to execution of that warrant, what information did
17 you have about the defendant in terms of his criminal history?

18 A We had, had information that Mr. Canady had been convicted
19 of involuntary manslaughter, which was punishable by more than
20 one year and then we had information, also, that he was in
21 possession of a, of a firearm.

22 Q Okay. Do you know the circumstances behind that
23 involuntary manslaughter conviction?

24 A Yeah. Based on the reading of the sheriff's department's
25 report, Mr. Canady killed his brother in a, in a car, with a

1 car, vehicle.

2 Q Do you know what -- was it -- was there a fight or a
3 dispute?

4 A Yes --

5 Q Tell the --

6 A -- prior to that.

7 Q Tell the Court about the dispute that led to the, the
8 manslaughter count.

9 A Based on the report is that Mr. Canady and his brother were
10 in some type of dispute, fight, and at some point Mr. Canady
11 got in a vehicle and ran over his brother.

12 Q Prior to the execution of the search warrant, were you
13 aware of the threats that had been made to Don Doles?

14 A Yes.

15 Q Okay. So when officers executed on November -- well, on or
16 about November 22, 2010, did officers execute that search
17 warrant at the home of Harry Canady and his person?

18 A Yes.

19 Q What did the -- what did you guys find?

20 A We found six firearms, three handguns and three long guns,
21 and various amounts of ammunition.

22 Q Okay. Now were there any guns found on or near the
23 defendant's person?

24 A Yes. A handgun was found just on a fence, on the ledge of
25 a fence just beside his person.

1 Q Would you -- "this person" being the defendant?

2 A Mr. Canady, yes, ma'am.

3 Q Would you please describe -- were you present when that
4 weapon was found?

5 A Yes.

6 Q Would you please describe for the Court as you approached
7 what you observed and where the gun was found in relation to
8 the defendant?

9 A Right. That morning, we observed from across the street
10 Mr. Canady exit his residence. At that time myself and several
11 other agents, federal agents and local officers, drove into his
12 property. I parked my vehicle and got out on the left side.
13 My supervisor got out on the right side. As we approached, my,
14 my supervisor inquired if he had any weapons and he indicated
15 that he did and he had just laid it down on the fencepost. And
16 sure enough, I looked over just to my left, saw it, and, and
17 motioned my partner, Christy Weisel (phonetic), to secure the,
18 the weapon while I maintained my supervisor.

19 Q And you -- and the other weapons that you mentioned, those
20 were found in his home?

21 A They were found in the house.

22 Q Okay. Along with ammunition?

23 A Yes.

24 Q And those weapons are listed in the indictment in its
25 forfeiture proceeding, is that correct?

1 A Yes.

2 Q As the investigation continued, were there consensually
3 monitored phone recordings done in January and February of
4 2012?

5 A Yes.

6 Q During the course of those recordings, what were the nature
7 of some of the statements the defendant made?

8 A The nature of the statements were directed towards killing
9 law enforcement officers that were to come back to his
10 property, that we had no business being on his property. There
11 were several statements basically to that effect of killing not
12 just myself, but anyone who came to his property that didn't
13 have any right to be on his property.

14 Q Did the defendant specifically name you, sir?

15 A Yes.

16 Q And what was your reaction when you listened to these
17 recordings for the first time?

18 A It's quite chilling. It's, it's not, not, not a good
19 feeling.

20 Q Did you fear for the safety of your family and your person?

21 A Yes.

22 Q There was one statement that you highlighted to me in
23 preparing for your testimony today that's in the transcript.

24 Do you recall that statement, sir?

25 A There was probably a couple, one being he was telling the

1 person on, the other person conducting the phone call that,
2 "You, you can't threaten someone unless you plan on killing
3 them."

4 Q And in preparing for today's hearing, I asked you to assist
5 me, or give me copies of the recordings so they could be
6 transcribed?

7 A Correct.

8 Q And those -- you've reviewed those transcriptions?

9 A Yes.

10 MS. RANGARAJAN: And those transcriptions, Your Honor,
11 have been attached, some of them have been attached to the
12 Government's motion for pre-trial detention.

13 THE COURT: Yes, ma'am. I'm familiar with them.

14 BY MS. RANGARAJAN:

15 Q I'm going to turn your attention to June 21, 2012, just
16 last week.

17 Was the defendant arrested on that date?

18 A Yes.

19 Q Okay. When the arrest was executed, were any firearms
20 found?

21 A Yes.

22 Q Please tell the Court where the firearm was found.

23 A A firearm, a .22 pistol, was found by ATF agent, Mark
24 Oxendine, underneath Mr. Canady's bed.

25 Q While agents -- and have you spoken to the agents that were

1 at the home during the, during the timeframe of the arrest?

2 A Yes.

3 Q And when that gun was found, who else was present in the
4 home? Who was present in the home?

5 A Mrs. Margaret Canady and, I believe, Mrs. Stephanie Canady.

6 Q Do you know the relationship of Margaret Canady to the
7 defendant?

8 A Mrs. Canady is the spouse of Mr. Canady.

9 Q What statements did Mrs., Ms. Margaret Canady make to
10 agents regarding that firearm that was recovered underneath the
11 defendant's bed?

12 A Statements made to Special Agent, IRS Special Agent Sherry
13 Lancaster was that shortly after the 2010 search warrant was
14 executed, the -- the -- this firearm that was found last week
15 was discovered and that they had been in possession of it since
16 then and that Mrs. Canady had informed Mr. Canady he needed to
17 get rid of it and that it had been a weapon that he had had for
18 years that, evidently, he had used it to go coon hunting, that
19 kind of thing.

20 Q What was -- what kind of gun is it?

21 A .22, .22 pistol.

22 Q It's a handgun?

23 A Yes.

24 Q Easily concealed?

25 A Yes.

1 Q Did -- what, if any, statements did Ms. Margaret Canady
2 make regarding concerns for her person upon his arrest --

3 A Right.

4 Q -- upon the arrest of her husband?

5 A Just that she was concerned about having to go pick him up
6 after having spent a night in jail, that he would not be very
7 happy, and they were concerned about who and how would, he
8 would be picked up.

9 Q Did she make any statements regarding "He's crazy"?

10 A Yes.

11 Q What were the nature of those statements?

12 A Is that he, since his incident back in the late nineties,
13 that he had been involved in drinking and that he was crazy.
14 That's my understanding from the IRS agent.

15 Q Okay. And what, if any, information did Ms. Margaret
16 Canady say regarding substance abuse, alcohol, by the
17 defendant?

18 A That he was, had a drinking problem.

19 Q When he was arrested, or when he was stopped by law
20 enforcement on June 21, 2012, was there an open container in
21 the car?

22 A Yes.

23 Q Is he known to drink early in the morning before he gets
24 into his car and drives around?

25 A Yes.

1 Q During the course of the investigation did you speak to any
2 of his daughters?

3 A Yes, I spoke to all three.

4 Q Okay. Did any one of them mention to you whether or not
5 they were concerned for their personal safety?

6 A Yes.

7 Q Okay. And what did that, without names, what did that one
8 individual say?

9 A That individual indicated that they were, basically, were
10 in fear of Mr. Canady at all times.

11 Q Every day of their life?

12 A Yes.

13 Q Now during the course of this investigation did the agents
14 learn of certain rental properties that were in the defendant's
15 -- that -- for which the defendant received the rental
16 payments?

17 A Yes.

18 Q Would you please tell the Court about what you learned in
19 connection with those rental properties?

20 A Yeah. According to the records of Cape Fear Farm Credit,
21 there are approximately 40 to 42 mobile homes that Mr. Canady
22 is responsible for and rents out and that there's 20 to 24 of
23 those mobile homes are on a piece of property owned by Mrs.
24 Stephanie Canady. It's our understanding from Mrs. Stephanie
25 Canady that's in name only, that all the monies are collected

1 and maintained by Mr. Canady and Mrs. Canady.

2 Q Do you know approximately how much per month each of those
3 42 homes brings in?

4 A The financial statements range anywhere from 130 -- per
5 month?

6 Q The rental -- well, just each rental -- the average rent,
7 monthly rental for each of the units, is it approximately \$400
8 a month?

9 A According to the Cape Fear Farm Credit records, it's
10 approximately \$400 a month.

11 Q And what is the gross rental income, according to the
12 records, for the rental property?

13 A A little over 200,000.

14 Q And it varies, usually?

15 A Right.

16 MS. RANGARAJAN: May I approach, Your Honor?

17 THE COURT: You may.

18 BY MS. RANGARAJAN:

19 Q I'm going to hand you what's been marked as Government's
20 Exhibit 6, Your Honor, to be added to our motion. We have 1
21 through 5 to the motion. (Counsel shows exhibit to the
22 witness.)

23 THE COURT: Correct.

24 MS. RANGARAJAN: And all these exhibits have been
25 provided to defense, Your Honor.

1 THE COURT: Thank you.

2 BY MS. RANGARAJAN:

3 Q Special Agent Davis, is that a balance sheet from Cape Fear
4 Farm Credit?

5 A Yes.

6 Q And what is the date of that balance sheet?

7 A The date at the top is January 3, 2012. The signature date
8 is January 18, 2012.

9 Q And are these documents that came from the file of Cape
10 Fear Farm Credit?

11 A Yes.

12 Q And they were submitted by the defendant and his wife in
13 connection with their loan from Cape Fear Farm Credit?

14 A Yes.

15 Q And turn your attention -- so as of Jan -- and this is a
16 January 18, 2012?

17 A Correct.

18 Q Right below -- right above the signature lines, what is the
19 statement in tiny print?

20 A (Reading):

21 "I/we certify the foregoing to be a true and accurate
22 representation of my/our balance sheet as of the dates
23 indicated."

24 Q Okay. Three lines up, what is the total assets declared by
25 the defendant on or about January 18, 2012?

1 A 2.8 million, approximately. It's a little over that.

2 Q Turn to Page 3, sir.

3 A (Witness complies)

4 Q There is a Rental Income, Gross. What's declared for this
5 year?

6 A 168,000.

7 Q There's also a Net -- a Gross Net -- not -- there's a Gross
8 Non-Farm Income. What is that? Do you see that line?

9 A Gross, Gross Non-Farm Income of 264,000.

10 Q Is there a Farm Income listed? There's Farm -- Total --
11 okay.

12 Moving on, sir. Hang on a second.

13 In that year, did the defendant receive farm income for
14 soybean sales of 161,000?

15 A Yes.

16 Q But again, the total assets that, that Harry Canady
17 represents to Cape Fear Farm Credit in January of 2012 is
18 approximately \$2.8 million --

19 A Yes.

20 Q -- based on the cover sheet?

21 A Yes.

22 Q Thank you, sir.

23 And in preparing for -- there are two other exhibits that
24 the Government previously provided to the Court, which is
25 listed as Exhibit 4 and Exhibit 5.

1 Those are balance sheets, is that correct, with Cape Fear
2 Farm Credit as well?

3 A Yes.

4 Q And you, you assisted in preparing those for the exhibits,
5 is that correct?

6 A Yes.

7 MS. RANGARAJAN: May I approach, Your Honor?

8 THE COURT: You may.

9 BY MS. RANGARAJAN:

10 Q And I'm going to show you the copies of those two exhibits.

11 (Counsel shows exhibits to the witness.)

12 Exhibit 4. Could you tell the date -- tell the Court the
13 date that those were certified by the defendant to be true and
14 accurate? Exhibit 4 being the October 2010.

15 A Right. It's signature date of November the 1st, 2010.

16 Exhibit 5 is April 28, 2011.

17 Q Okay. And what is the total assets for Exhibit 4 listed by
18 the defendant?

19 A Approximately three million.

20 Q And a few months later, he submits a, another balance sheet
21 to Cape Fear Farm Credit, is that your understanding? The --
22 Exhibit 5. Sorry.

23 A Oh, I'm sorry.

24 Exhibit 5 is, again, April 28, 2011. Total assets of 2.5
25 million.

1 Q Okay.

2 I'm going to turn your attention to Exhibit 4 first, sir.
3 That Line 28, does the defendant list 42 mobile homes at
4 \$400,000?

5 A Yes.

6 Q Okay. Exhibit 5, Line 28, does the defendant again list 42
7 mobile homes at a value of \$400,000?

8 A Yes.

9 Q Turn your attention to Exhibit 6, Line 28. Again, among
10 his assets does the defendant list 42 mobile homes at \$400,000?

11 A Yes.

12 MS. RANGARAJAN: Your Honor, may I have a moment
13 just --

14 THE COURT: You may.

15 (Pause)

16 BY MS. RANGARAJAN:

17 Q Shortly after the execution of the arrest warrant, did the
18 Government also seize pursuant to a post-indictment restraining
19 order bank accounts for the defendant?

20 A Yes.

21 Q In those bank accounts based upon information obtained from
22 IRS that's involved, is there any indication that the \$20,000 a
23 month from this rental property has been deposited into those
24 accounts?

25 A We're -- we are not seeing -- I have not seen any type of

1 large cash deposits.

2 Q So right now, any monies from the rentals have been
3 unaccounted for in his bank accounts --

4 A Yes.

5 Q -- no record?

6 Based upon the investigation, how is that rent paid?

7 A By -- a lot of it by cash.

8 Q So approximately \$20,000 a month in cash?

9 A Correct.

10 (Pause)

11 MS. RANGARAJAN: Your Honor, at this time the
12 Government has no further questions for Special Agent Davis on
13 the issue of detention.

14 THE COURT: Thank you, ma'am.

15 One question I had was where is the Total Assets line
16 on these statements?

17 MS. RANGARAJAN: Your Honor, it's on the first page.
18 It is below Line 38. So you'll see Total Long-Term Assets and
19 then right below it you'll see Total Assets.

20 THE COURT: Oh, I see. Okay.

21 MS. RANGARAJAN: You also see Net Worth, which is over
22 \$1 million in each of these declarations, some closer to more
23 than 1-1/2 million.

24 THE COURT: I see.

25 Okay. Thank you.

1 Mr. Neyhart, sir?

2 MR. NEYHART: Yes, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. NEYHART:

5 Q Good afternoon, Mr. Davis.

6 With respect to the bank accounts that you have frozen, was
7 it your testimony that you did not see any payments that would,
8 or deposit reflecting any rental, any rental amounts?

9 A There are -- no. There are deposits reflecting some
10 rental, but large cash deposits I've not seen.

11 Q Okay. And are you aware how many of those trailers are
12 currently rented or not rented?

13 A I'm not aware of that.

14 Q So you're -- so you would not be aware that at least ten
15 are vacant at this point?

16 A No.

17 Q But just to clarify, you are seeing money coming in that is
18 identified as -- as a rent -- some sort of rental payment from
19 that period?

20 A We are -- I've seen records from the Lumberton Housing
21 Authority that come to Mr. Canady.

22 Q With respect to the, the bank account, are you seeing any
23 deposits that would indicate in any way that it was proceeds
24 from any rental amounts from this trailer park?

25 A My recollection is there, there's some deposits that may

1 say "Rent" in the Memo line.

2 Q Okay. And are you also seeing expenditures for rental,
3 electric and other bills with respect to the trailer park?

4 A I don't specifically recall them in specifics, but
5 generally, yes.

6 Q Okay. You had talked about an incident on or around June
7 25, 2008 with respect to, I believe you testified, Special
8 Agent Don Doles and you based your testimony on your personal
9 conversations with Mr. Doles and, and the record, is that
10 correct?

11 A Yes.

12 Q Was there any indication from Mr. Doles either in the
13 record or from you personally that he had contacted Mr. Canady
14 previously, previous to coming onto his property?

15 A Yes. The, the first occasion was in 2007, approximately a
16 year prior -- it was the, June, July, August. I don't recall
17 exactly -- but approximately a year prior to this --

18 Q Uh-huh. (Indicating an affirmative response)

19 A -- he and Investigator Paul Lett had visited Mr. Canady.

20 Q Okay. But, but immediately prior to the, the June 25, 2008
21 episode he didn't call ahead and, and ask Mr. Canady or let him
22 know, "We're coming by. We'd like to talk to you"?

23 A I have no knowledge of that.

24 Q Okay.

25 A I do not recall, I do not recall Mr. Doles saying that he

1 had called ahead of time.

2 Q Okay. And was there any, anything in either the report or
3 in your personal conversation that would reflect the fact that
4 Mr. Canady was in the middle of, of spraying some highly
5 poisonous chemicals on his property at that time?

6 A My recollection is the Memorandum of Interview and/or a
7 conversation was that Mr. Canady was busy --

8 Q Uh-huh. (Indicating an affirmative response)

9 A -- conducting some type of spraying.

10 Q Okay. And was, to the best of your knowledge, was he upset
11 because he believed your co-agent was, in his, in his mind,
12 trespassing while he was trying to spray and, and it could be a
13 danger to him?

14 A Yes. Mr. Canady had, had referenced or asked Mr. Doles did
15 he see the No Trespassing sign.

16 Q Okay.

17 A And Mr. Doles said no.

18 Q Okay. Okay.

19 Is there any reference to the Hazardous Waste signs in, in
20 the Memorandum you saw?

21 A Not to my recollection.

22 Q Okay. Did Mr. Canady, after confronting Mr. Doles, ever
23 say anything to him after he left the property?

24 A No. There was no further contact after that date --

25 Q Okay.

1 A -- with Mr. Doles.

2 Q So, so Mr. Canady did, then, he did not retaliate in any
3 way for Mr. Doles coming onto his property?

4 A The only contact was that day in which he threatened to get
5 his gun, the only contact I'm aware of.

6 Q Yeah. And after that incident, nothing ever happened as
7 far as any type of other conduct by Mr. Canady up until 2012?

8 A Correct.

9 Q Okay. And isn't it true that you had scheduled a meeting
10 with -- well, back up.

11 Isn't it true that a target letter was sent to Mr. Canady?

12 A Yes.

13 Q Okay. And is it, isn't it true that you, you and I
14 personally met at your office to, to discuss some of the
15 evidence you believe implicated Mr. Canady?

16 A Yes.

17 Q Okay. And after that meeting isn't it true that, that we
18 scheduled a meeting with Mr. Canady in the first floor of this
19 court, of this building?

20 A Yes, it is.

21 Q Okay. And at that meeting did Mr. Canady do anything that
22 was disruptive, in your view?

23 A No, sir.

24 Q Okay. Is it fair to say he was listening to what you were
25 trying to, what you had to say?

1 A Yes.

2 Q Okay. And did he make any threats to you at that time?

3 A No.

4 Q And did he -- did he attempt to contact you or any of your
5 family members in any way after that meeting?

6 A No, sir.

7 Q And did he at any time from 2008 till today make, made any
8 statements to you directly --

9 MR. NEYHART: Well, let me rephrase that question,
10 Your Honor.

11 BY MR. NEYHART:

12 Q Did Mr. Canady, after we met in 2010 and prior to the, the
13 search warrant being executed in November 2010, did he make any
14 statements or threats to any other Government agent that you're
15 aware of?

16 A No.

17 Q Okay. And did he make any other, in that time period, any
18 other states [sic] and threats to any other, any family member
19 of, of any Government agent that you're aware of?

20 A No. But would you repeat the timeframe you're referring to
21 again?

22 Q I'm, I'm speaking about the timeframe between the time we
23 initially met and November 2010, which, I believe, is when you
24 executed a search warrant?

25 A So between our meeting and the execution of the search

1 warrant?

2 Q That's correct.

3 A No, no information --

4 Q Okay.

5 A -- that he's contacted.

6 Q All right.

7 Now when you executed the search warrant, is it, isn't it
8 true that, that you and some of the other officers who executed
9 had your weapons drawn?

10 A Yes. That's -- based on the situation that we had of a
11 known convicted felon with probable cause that he was in
12 possession of a firearm, when my -- when we -- I was the first
13 vehicle that approached -- when my supervisor got out he first
14 made contact with Mr. Canady and had his weapon. I come from
15 the other side and had my weapon drawn.

16 Q Okay.

17 A When my, my supervisor placed Mr. Canady in, in, in
18 handcuffs for his --

19 Q Uh-huh. (Indicating an affirmative response)

20 A -- for our safety and his safety, then weapons were put
21 back in place.

22 Q And is it fair to say that Mr. Canady was surprised by the,
23 the show of force that you, that you used when you searched his
24 house?

25 A On the day of, I have no opinion of whether he was

1 surprised or not.

2 Q Uh-huh. (Indicating an affirmative response)

3 A Subsequently, he has expressed his --

4 Q Uh-huh. (Indicating an affirmative response)

5 A -- his concern about us having our weapons.

6 Q Weapons drawn.

7 Let's, let's go back to Mr. Canady's criminal history.

8 Are you familiar with Mr. Canady's criminal history?

9 A Yes.

10 Q And you had referenced the, the incident in 1997 involving,
11 involving his brother, is that correct?

12 A Yes.

13 Q Are you aware of any other -- since that time, are you
14 aware whether of -- are you aware of any other charges
15 Mr. Canady has had for any type of violent conduct?

16 A Violent conduct?

17 Q Yes.

18 A No, sir.

19 Q Okay. And with respect to the, the unfortunate statements
20 of Mr. Canady that you have, that you have transcribed and
21 they're in the Government's motion, I'd like to call your
22 attention to Document No. 16, the motion for pre-trial
23 detention.

24 Do you have a copy of that, or should we approach?

25 A I do not.

1 MS. RANGARAJAN: He does not have a copy of the --

2 MR. NEYHART: Do you want to give it to him, or should
3 I approach with it?

4 MS. RANGARAJAN: What do you want, the --

5 MR. NEYHART: Just the motion.

6 MS. RANGARAJAN: Do you want the --

7 MR. NEYHART: Motion.

8 MS. RANGARAJAN: -- the transcripts that are attached?

9 MR. NEYHART: What you have if they were admitted.

10 MS. RANGARAJAN: Okay.

11 Your Honor, may I, may I approach with my trial
12 binder? It's got the pre-trial motion.

13 THE COURT: You may.

14 MS. RANGARAJAN: Special Agent Doles, I mean, Miles
15 Davis, I'm going to hand you my copy of the pre-trial motion
16 with the exhibits attached.

17 (Document handed to the witness)

18 THE COURT: There is some highlighting on that
19 document, Mr. Neyhart. Is that a problem?

20 MR. NEYHART: I don't think it'll be a problem for
21 these purposes.

22 THE COURT: Okay.

23 BY MS. NEYHART

24 Q I, I'd like to call your attention, Mr. Davis, to the, the
25 motion for pre-trial detention.

1 THE COURT: And this is at Docket Entry 16, correct?

2 MR. NEYHART: That's correct, Your Honor.

3 BY MR. NEYHART:

4 Q And I'd like to call your attention to Page, Page 6.

5 A Yes, sir.

6 Q And the, the cooperating witness in this, in this phone
7 call says near the bottom, "As long as they ain't got their gun
8 pulled, you all right, though, right?" Do you see that?

9 A Yes.

10 Q And is that a fair and accurate transcription of what the
11 cooperating witness said at that, at that point?

12 A Yes.

13 Q And then Mr. Canady replied, "Yeah. If they ain't got
14 their damn gun pulled, fine." Is that --

15 A That's what the transcript reads.

16 Q -- what the transcript reads? Okay.

17 After you served the warrant on, on Mr. Canady in November,
18 did, did Mr. Canady make any threats directly to you
19 personally?

20 A No. The only direct threats were to Agent Doles.

21 Q Okay. And at the, at the time Mr. Canady said these words,
22 he didn't know that you, you were recording this, is that
23 correct?

24 A No. I wouldn't think he did.

25 Q Okay. And at the time Mr. Canady said that, he had, he had

1 no way of knowing you were recording that, is that correct, to
2 the best of your knowledge?

3 A Correct.

4 Q And since November 2010, Mr. Canady has not made any
5 statements threatening your family, is that correct?

6 A No.

7 Q That is not correct, or there's no statements?

8 A No. No, there's been no -- I'm sorry. There's been no
9 threats specific to my family.

10 Q Okay. And since November 2010 Mr. Canady never directed
11 any specific threats to any other agents, is that correct?

12 A Since 2010?

13 Q November 2010.

14 A The recordings and the transcripts --

15 Q Right.

16 A -- would, would indicate that Mr. Canady has threatened any
17 law enforcement that comes on his property, including the local
18 sheriff. He makes a comment -- and I'm speaking generally --
19 that --

20 Q Uh-huh. (Indicating an affirmative response)

21 A -- if the, if the deputies or sheriff deputies are on his
22 property --

23 Q Uh-huh. (Indicating an affirmative response)

24 A -- he'll call the sheriff and get them to leave. He don't
25 want anybody on his property --

1 Q Uh-huh. (Indicating an affirmative response)

2 A -- of any sort.

3 Q Uh-huh. (Indicating an affirmative response)

4 A Law enforcement or not.

5 Q And when, and when Mr. Canady was, was arrested a week ago
6 there was no, there was no incident, is that correct? I mean,
7 he was peacefully arrested?

8 A He did not resist. Mr. Canady, once I had him in custody
9 in our vehicle --

10 Q Uh-huh. (Indicating an affirmative response)

11 A -- Mr. Canady started to say, to speak --

12 Q Uh-huh. (Indicating an affirmative response)

13 A -- and I stopped him --

14 Q Uh-huh. (Indicating an affirmative response)

15 A -- for his own benefit and asked him to be careful what he
16 says. But --

17 Q Uh-huh. (Indicating an affirmative response)

18 A -- I'd be happy to, to quote what he started to say, with
19 permission. Out of respect for the Court, it's not very
20 pretty.

21 THE COURT: Well, let's --

22 BY MR. NEYHART:

23 Q I have not asked that question. The prosecutor may.

24 THE COURT: We've heard it all, folks, so I'm sure
25 it's nothing that I haven't heard before.

1 BY MR. NEYHART:

2 Q In, in this case, did you recall me asking you to allow
3 Mr. Canady the chance to turn himself in if you indicted him?

4 A In, in deference of trying to be totally truth, somewhat,
5 yes, but I've had so many defendants over the last four or five
6 years --

7 Q Uh-huh. (Indicating an affirmative response)

8 A -- that request has been made, I don't deny that you said
9 that, but I -- I would just have -- my testimony would have to
10 be I vaguely remember that.

11 Q Okay. And what is your usual policy with respect to
12 defendants you're about to arrest under an indictment?

13 A I'm a new agent.

14 Q Uh-huh. (Indicating an affirmative response)

15 A I've only had one other indictment -- it wasn't my case --
16 one other indictment, but my understanding, my discussions with
17 this is based on the nature of the threats, that we were going
18 to not do self-report.

19 Q Okay.

20 (Pause)

21 BY MR. NEYHART:

22 Q Are you aware of, with respect to the incident in, in June
23 25, 2008, were you aware of Mr. Canady's contention that it was
24 illegal for anyone, any other individual to be around because
25 of the nature of his spraying?

1 A That sounds familiar. I'm not sure when I became aware of
2 that, whether it was when we met with Mr. Canady and yourself.

3 Q Uh-huh. (Indicating an affirmative response)

4 A But at some point along the line I am aware of that. And
5 it may be -- it may be in the Memorandum of Interview. I don't
6 specifically recall.

7 Q Okay.

8 MR. NEYHART: Your Honor, I have no further questions.

9 THE COURT: Thank you.

10 Ms. Rangarajan?

11 MS. RANGARAJAN: Just a few follow-up questions.

12 REDIRECT EXAMINATION

13 BY MS. RANGARAJAN:

14 Q Special, Special Agent Davis, when you spoke to Special
15 Agent Doles about the June 25, 2008 incident, at any point did
16 Mr. Canady express concern for Mr. Doles' safety when he was
17 out on that property?

18 A No.

19 Q In fact, he was yelling and angry at Mr. Doles for being
20 present, correct?

21 A Yes, he was angry.

22 Q And based upon the year preceding, in June, in June of
23 2007, one year prior to the threat, Doles had been to, Special
24 Agent Doles had been to the property, had spoken to Mr. Canady,
25 is that correct?

1 A Yes. That, in fact, that's, that's when he lied to Special
2 Agent Doles about the initial contact, which Mr. Canady has
3 admitted to the truth in a subsequent interview with me.

4 Q But Special Agent Doles and the defendant met in June of
5 2007, is that correct?

6 A Yes.

7 Q So based upon that contact Mr. Canady was fully aware that
8 Special Agent Doles was an agent for USDA-OIG?

9 A Yes.

10 Q And on June 25, 2008 at any point did Mr. Canady express
11 concern for Mr. Doles', Special Agent Doles' safety?

12 A The only thing that I can vaguely remember -- it may be
13 something in the Memorandum of Interview -- about chemicals.

14 Q But did he say -- when he threatened him with a gun, was
15 that because he was worried about his exposure to chemicals?

16 A No.

17 Q He didn't want Special Agent Doles on the property, is that
18 correct?

19 A Correct.

20 Q Why did you -- you know, defense counsel asked you about
21 the meetings in the Federal Building. Why were the meetings
22 scheduled here?

23 A In an attempt, after the target letter, to discuss the
24 case.

25 Q Why did you choose to hold the meetings in the Federal

1 Building as opposed to USDA offices?

2 A Sure. Based on the threats in 2008, we wanted it to be in
3 a secure facility where they come through the metal detector.

4 And I put the court security officers on notice.

5 Q Okay. Now the defendant had no knowledge that he was being
6 recorded during the consensually monitored calls in 2012?

7 A No.

8 Q Based upon -- which would make him more free to have open
9 communications with the other individuals, is that correct?

10 A Yes.

11 Q Unguarded communications?

12 A Correct.

13 MS. RANGARAJAN: No further questions for Special
14 Agent Davis, Your Honor.

15 THE COURT: Thank you, ma'am.

16 Mr. Neyhart?

17 MR. NEYHART: Thank you, Your Honor. I have just one
18 topic I'd like to explore.

19 RECROSS EXAMINATION

20 BY MR. NEYHART:

21 Q There was a reference to, by the prosecutor, to Mr. Canady
22 "threatening" Mr. Doles with a gun.

23 Did I understand your testimony correctly that he informed
24 Mr. Doles that he had a gun --

25 A The --

1 Q -- and that was the nature of his threat?

2 A The nature was Mr. Canady said, "I'm going to get my gun."

3 Agent Doles told me he didn't never, he never saw the weapon.

4 It was later in these recordings which Mr. Canady admitted

5 having pulled a gun on Mr. Doles.

6 Q Well -- okay.

7 But in the initial reports you don't -- you -- you did --

8 Mr. Doles did not write that he actually had a gun pointed at

9 him, is that correct?

10 A That is correct. He just -- his words in his Memorandum of
11 Interview pertinent to this question is Mr. Canady was going to
12 get his gun.

13 Q Okay.

14 A Mr. Doles has talked to me and felt that it was in his
15 console, but he never saw the weapon.

16 Q Okay.

17 MR. NEYHART: Your Honor, I have no further questions
18 for Mr. Davis.

19 THE COURT: Thank you.

20 Ms. Rangarajan?

21 MS. RANGARAJAN: Nothing further, Your Honor --

22 BY THE COURT:

23 Q Sir --

24 MS. RANGARAJAN: -- with this, with this defendant
25 or --

1 THE COURT: That'll be fine.

2 MS. RANGARAJAN: -- with the agent. I'm sorry.

3 THE COURT: That's all right.

4 MS. RANGARAJAN: But may I --

5 BY THE COURT:

6 Q Sir, I wanted --

7 THE COURT: I had a question for --

8 MS. RANGARAJAN: Ooh, sorry.

9 BY THE COURT:

10 Q The comments -- I just wanted to -- I, I assume this would
11 have been brought out -- but when you arrested Mr. Canady on
12 the, on the indictment in this case -- I gather he used foul
13 language with you -- but was there -- and I'm assuming that.
14 There's been no testimony -- but was there any threat? Did he
15 convey any threat to you at that time?

16 A No, sir.

17 Q Okay.

18 MS. RANGARAJAN: I have no further questions for
19 Special Agent Davis, Your Honor.

20 THE COURT: That'd be fine.

21 MS. RANGARAJAN: May I approach, Your Honor --

22 THE COURT: You may.

23 MS. RANGARAJAN: -- to collect my binder?

24 THE COURT: You may step down, sir.

25 THE WITNESS: Thank you, sir.

1 THE COURT: Ms. Rangarajan, do you have further need
2 of Exhibit 6?

3 MS. RANGARAJAN: I do not have further need of Exhibit
4 6, Your Honor. I have a copy for you.

5 THE COURT: Well, let me -- while we're --

6 MS. RANGARAJAN: But --

7 THE COURT: If I could, just, just for the record,
8 note that the Memorandum has already been -- well, the motion
9 has already been identified by docket entry. It's the
10 Government's motion for pre-trial detention. It's at Docket
11 Entry 16. The exhibits that are referenced are at -- they're
12 successfully -- successively -- they've already been filed --
13 Documents 1, 2, 3, 4, and 5 at 16-1, 16-2, 16-3, 16-4, and 16-
14 5.

15 So they are already, as far as I'm concerned, part of
16 the record of our case here for purposes of the motion.

17 And I assume that the Government seeks to have Exhibit
18 6 made part of the record of this proceeding as well?

19 MS. RANGARAJAN: Yes, please.

20 THE COURT: Very good. I'll direct that that be
21 filed.

22 Mr. Neyhart, I don't mean to leave you out of this
23 conversation.

24 Did you wish it be heard with respect to any of these
25 exhibits?

1 MR. NEYHART: No, Your Honor. You were speaking and I
2 thought I should rise out of respect for the Court.

3 THE COURT: Well, I appreciate that.

4 I gather the Government has more evidence, is that
5 correct, Ms. Rangarajan?

6 MS. RANGARAJAN: Your Honor, I can reserve for
7 argument, but the Government is going to be relying on the
8 defendant's consensually monitored recordings and I want to
9 highlight things to the Court that are in those recordings.

10 So by -- I can either do it now by way of the
11 Government's evidence -- and it is probably appropriate -- but
12 if the Court does not want to hear from me, I also understand
13 that as well.

14 THE COURT: The Court does want to hear from you, but
15 I would rather reserve that for argument because then I can
16 hear Mr. Neyhart's response, to the extent he has one.

17 MS. RANGARAJAN: Okay.

18 So we would rely on -- we have our motion for pre-
19 trial detention that's been filed and have summarized the
20 transcripts, but the transcripts as transcribed by the court
21 reporter are attached and so those would govern, if there is a
22 typo in my transcription.

23 The Government would also note, Your Honor, to the
24 Court that when Probation did their report they did not have
25 the benefit of Exhibit 6. They did not -- it appears they did

1 not have the benefit of the attachments to the Government's
2 exhibit -- I'm sorry -- the exhibits attached to our pre-trial
3 motion.

4 THE COURT: Yes.

5 MS. RANGARAJAN: And so in terms of some of their
6 analyses, the Government does not know if they had the
7 information in order to prepare it.

8 THE COURT: I understand.

9 MS. RANGARAJAN: But we would be submitting all of
10 these exhibits to counterpoint and we'll argue at the
11 appropriate time.

12 THE COURT: That'll be fine.

13 The Court has reviewed the Pretrial Services report to
14 which counsel is referring as well.

15 Mr. Neyhart, any evidence for the defendant, sir?

16 MR. NEYHART: Your Honor, I am prepared to call
17 Mrs. Canady as a potential third-party custodian if that would
18 be appropriate at this time.

19 THE COURT: Well --

20 MR. NEYHART: Or are you still going to be ruling on
21 the issue of detention before getting to that point?

22 THE COURT: No. I think if, obviously --

23 MR. NEYHART: She's identified in the Pretrial
24 Services report.

25 THE COURT: Yes. I'm familiar with that.

1 I think if, if the defendant wishes me to consider
2 Mrs. Canady as part of a release plan --

3 MR. NEYHART: Uh-huh. (Indicating an affirmative
4 response)

5 THE COURT: -- I would need to hear from her. But
6 whether to call her or not is up, is up to the defendant. I
7 will not consider her as a third-party defendant if she does
8 not testify.

9 MR. NEYHART: Okay.

At this time I would like to call Mrs. Canady.

13 | MR. NEYHART: Yes, Your Honor.

14 THE COURTROOM DEPUTY: Come on up here, please, ma'am.
15 And raise your right hand, left hand on the Bible.

16 MARGARET CANADY, DEFENSE WITNESS, SWORN

20 THE WITNESS: Margaret Canady. Margaret Hakins Canady
21 (phonetic).

22 DIRECT EXAMINATION

23 BY MR NEYHART:

24 Q Good afternoon, Ms. Canady.

25 A Good afternoon

1 Q What is your relationship to Harry Canady?

2 A It's my husband.

3 Q How long have you been married?

4 A 44 years.

5 Q And during the course of those 44 years how often have --

6 where have you lived?

7 A On Highway 301 North in Lumberton.

8 Q For all those 44 years you lived --

9 A Well, yes.

10 Q -- at that one address?

11 A We -- the present home we live in we've lived in 36 years,
12 36 years, but probably half a mile down the road we lived there
13 for like 9 years.

14 Q Okay. And do you have a phone in your address?

15 A Yes, sir.

16 Q Okay. Do you recall any type of a worthless check
17 conviction in 2000 that you experienced?

18 A No, sir. I've never had a worthless check.

19 Q Okay.

20 A No, sir.

21 Q Is there another individual in the area with your name that
22 you have been confused with in the past?

23 A Yes, sir.

24 Q Can you describe to the Court a little bit about that?

25 A Well, the first I learned about it is some deputy come up

1 to my -- I have a beauty shop behind my house -- one night
2 wanting to know something about my sons and I told him I didn't
3 have any sons. I only had daughters. And then --

4 Q Uh-huh. (Indicating an affirmative response)

5 A -- I found out that there, there was another Margaret
6 Canady, but she was on another road.

7 Q Uh-huh. (Indicating an affirmative response)

8 A So.

9 Q Uh-huh. (Indicating an affirmative response)

10 A And since then I've had like calls from the hospital
11 requesting payment for a Margaret Canady and we got that
12 straightened out that I'm, I was not that Margaret Canady.

13 Q Okay. In your, in your residence, do you have land-line
14 telephone?

15 A Yes, sir.

16 Q Okay. And are you willing to serve as the third-party
17 custodian for your husband on release --

18 A Yes, sir.

19 Q -- if the Court decides to order that?

20 A Yes, sir.

21 Q And are you aware that as part of your duties as a third-
22 party custodian that you'd have to be familiar with all the
23 terms and conditions of his release, is that correct?

24 A Yes, sir.

25 Q And you're also aware that if he violates those terms and

1 conditions of release it's your duty to report him, are you
2 aware of that?

3 A Yes, sir.

4 Q And are you willing to do that?

5 A Yes, sir.

6 Q All right. Are you -- or -- are you currently working
7 anywhere?

8 A No, sir. Well, I do part time at a beauty shop right
9 behind my house. It's very, very limited, though.

10 Q Okay. And do you have the capability to coordinate with
11 Mr. Canady to keep, keep track of where he is?

12 A Yes, sir.

13 Q Okay.

14 MR. NEYHART: Your Honor, I have no further questions
15 for Ms. Canady.

16 THE COURT: Thank you, sir.

17 Ms. Rangarajan?

18 MS. RANGARAJAN: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. RANGARAJAN:

21 Q Good afternoon, Ms. Canady.

22 A Good afternoon.

23 Q You and I haven't met. My name is Banu Rangarajan. I'm an
24 Assistant U. S. Attorney. I'm going to ask you a few
25 questions. If you don't understand my questions, please ask me

1 and I'll try to clarify it for you.

2 You just took an oath to tell the truth. You understand
3 that?

4 A Yes.

5 Q And that even if someone has asked you to lie for them,
6 that you swore to tell this Court the truth?

7 A Yes, sir.

8 Q Okay. So how long have you been married to the defendant?

9 A 44 years.

10 Q Were you aware of your, the 1997 conviction for involuntary
11 manslaughter --

12 A Yes, sir.

13 Q -- that your, your husband had?

14 A Yes, sir.

15 Q And that was his brother, correct?

16 A Yes, sir.

17 Q And the result of that tragic event was that they were
18 fighting, correct?

19 A Yes, sir.

20 Q And your husband got in his car and drove over his brother?

21 A Yes, sir.

22 Q Was alcohol involved?

23 A On both sides, yes.

24 Q Does your husband have a drinking problem?

25 A Yes, sir.

1 Q How much does he drink a day?

2 A It varies. He only drinks beer. He doesn't, he doesn't
3 indulge in, you know, hard liquor or anything. He only drinks
4 beer.

5 Q Does he get a temper when he drinks?

6 A Sometimes.

7 Q So he drinks every day, is that --

8 A Well, basically, yeah. There may be some days.

9 Q Does he get up in the morning and go to the convenience
10 store and buy alcohol?

11 A I've heard that. I am -- I have not seen it on my own. I
12 have -- that -- you know, that's just --

13 Q Does he drive with open containers in his car? Does he
14 drive when he's drinking? Does he drink beer and drive?

15 A I don't, I don't ride with him.

16 Q Okay. Did -- were you present when the officers executed a
17 search warrant on November 22, 2010 at your home?

18 A Yes, ma'am.

19 Q And at that time after they left did you and your husband,
20 Mr. Canady, discover another weapon in the house?

21 A Not at that time. It was probably several months later
22 when I was cleaning out a closet.

23 Q Okay. So sometime within several months of 2010, November
24 of 2010, you discovered a firearm in the house?

25 A Yes.

1 Q Was it a .22 caliber pistol?

2 A Yes.

3 Q Handgun?

4 A Uh-huh. (Indicating an affirmative response)

5 Q What'd you do with it?

6 A I, I put it away.

7 Q Where did you put it?

8 A Under my bed.

9 Q Did you give it to your husband?

10 A Yes, ma'am.

11 Q When did you give it to your husband?

12 THE COURT: Let me, let me stop you, Ms. Rangarajan.

13 We're getting into an area of where this line of
14 questioning could expose this defendant to criminal liability.

15 BY THE COURT:

16 Q Ma'am, I need to advise you that you have the right to,
17 against self-incrimination, meaning you cannot be forced to
18 answer questions that could expose you to criminal liability.

19 THE COURT: I question the need for this line of
20 questioning. We, we got evidence that there was this .22
21 caliber pistol.

22 MS. RANGARAJAN: Your Honor, the defense has offered
23 her as a third-party custodian, somebody who would report to
24 the Court when the defendant is violating the laws. She knew
25 he was violating the law subsequent to the November 2010

1 executed, execution of the search warrant. We have information
2 -- she told officers she told the defendant not to have it and
3 yet it stayed in the house, never reported, and it was found in
4 2012 under his bed.

5 So she is -- and I believe the evidence would come out
6 that she feels threatened by the defendant and, therefore,
7 would not be able to act as a suitable third-party custodian.
8 So that is the nature of the line of questioning, Your Honor,
9 is that she has not reported him to law enforcement, has not
10 turned that gun in, and that the defendant -- she could not
11 supervise as a third-party custodian the defendant, Your Honor.

12 THE COURT: Mr. Neyhart?

13 MR. NEYHART: Yes, Your Honor.

14 In response to that, I, I would state that there's a
15 difference between having the affirmative duty as a third-party
16 custodian to, you know, to report any violation versus a
17 generic duty, which I don't believe exists, to turn your spouse
18 in. In fact, there's probably privilege against that.

19 So I don't believe that this is an appropriate line
20 of, of questioning and to the extent it is, I think we've
21 probably gotten to the, the extent of whatever evidence you
22 could get from it.

23 THE COURT: It's hard for me to conceive of any
24 further testimony this witness would give that would constitute
25 her as a suitable third-party custodian based on what I've

1 heard.

2 I've heard enough about the pistol. If you want to
3 continue your cross-examination, you can, Ms. Rangarajan, but,
4 as I say, I think, I really think the ball is more in the
5 defendant's court at this time to convince the Court that this
6 would be a suitable arrangement.

7 MS. RANGARAJAN: If the Court is, is so convinced,
8 then the Government has no further questions for this witness.
9 If the Court --

10 THE COURT: Thank you, ma'am.

11 Mr. Neyhart, any further questions for this witness?

12 MR. NEYHART: Yes, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. NEYHART:

15 Q Ms. Canady, do you, do you believe you have the ability to
16 report any activity by Mr. Canady that would violate his
17 conditions of release?

18 A Yes, sir, I do at this time. I do believe I could, I would
19 report anything. I do, if I'm answering that correctly.

20 Q Uh-huh. (Indicating an affirmative response)

21 MR. NEYHART: I have no further questions, Your Honor.

22 THE COURT: Ms. Rangarajan?

23 MS. RANGARAJAN: No, Your Honor, no further questions.

24 THE COURT: Very good.

25 You may step down, ma'am.

1 Mr. Neyhart, is there any further evidence for the
2 defendant?

3 MR. NEYHART: No, Your Honor.

4 THE COURT: Very good.

5 Ms., Ms. Rangarajan, I'll be happy to hear your
6 argument at this time.

7 MS. RANGARAJAN: Thank you, Your Honor.

8 Your Honor, the Government has moved for detention in
9 this case as the Government believes there are no conditions or
10 combinations of conditions that can assure the safety of the
11 community as well as ensure the defendant's appearance.

12 You've heard the -- some of the factors that the Court
13 is required to consider are the nature and circumstance of, of
14 the offense, including whether or not it involves a firearm.
15 We've got felon in possession, we have threats against law
16 enforcement officers, in addition to the fraud allegations set
17 forth in the indictment. You've got a crime of violence, the
18 threats of retaliating to kill.

19 You also -- you heard the Government's evidence. It's
20 strong. By way of summary, the weight of the evidence will
21 include audio recordings of the defendant, include prior
22 convictions that he does not, you know, involuntary
23 manslaughter. Wife's aware of it. So the -- and then the crop
24 insurance fraud includes bank records which reflect two
25 different sets of information, one that the defendant's

1 provided to the bank when it favors him and the other to the
2 Government when it favors him to get crop insurance, fraud.

3 But perhaps more important to all of this is the
4 defendant's statements. What he says in those recordings are
5 critical, I think, to describe the nature of this person when
6 he is unguarded and free to talk. These are the things that he
7 says and admits. He admits in a January 23, 2012 consensually
8 monitored call, "I pulled a gun on there. I pulled a gun on
9 the man that come to my goddamn property." Cooperating
10 witness, "Lord, have mercy." The defendant says, "He ain't got
11 no business on my goddamn property. The mother fucker didn't
12 have a business on my goddamn property and I told him. I told
13 my lawyer that, I said, 'Listen, if he ever comes back, come
14 back to kill me because I am going to kill him.'" "You still
15 have" -- the cooperating witness asked, "You still got guns?"
16 Mr. Canady, "Yes. Hell, yes." And, in fact, law enforcement
17 officers six months later find a firearm underneath his bed.

18 Mr. Canady also says, "If he comes back to my house
19 again, I'm going to assume he's trying to kill me. I'm going
20 to try to kill him first." Goes on, Mr. Canady says, "I mean,
21 I ain't going to sit. Next time, I won't let, next time I
22 won't give him no goddamn, no damn guns. He'll have to kill
23 me." Later that same, in that same conversation, he, you know,
24 he basically -- "he," the defendant -- Mr. Canady singles out
25 Miles Davis, the agent in this case, and he talks about that

1 time they met up in the Federal Building. Mr. Canady says, "I
2 told him, I said, 'Now let me tell you one goddamn thing.' I
3 told the lawyer, I said, 'If Miles Davis would open his mouth
4 for just to say something out of the way, don't think I ain't
5 gonna knock the hell out of him or slap the fuck out of him
6 right here in this goddamn building. You know what I'm
7 saying?'" Cooperating witness, "Yes." Mr. Canady, "It
8 wouldn't, it wouldn't have took me much for me to slap him
9 right there in front of me." Cooperating witness, "You don't
10 want to be doing that. You'll end up where I was."
11 Mr. Canady, "Well, I was -- let me tell you something. If he
12 put his hands on me, if he put his fucking hands on me, I'd
13 have to try to kill him right there."

14 In another call that same day, he talks about having a
15 machete in his room, a bow and arrow, and a gun. It goes on.
16 The recordings are for the Court. He again singles out Miles
17 Davis. Later says, "I oughta kill Miles because he's going to
18 kill me." Mr. Canady, Page 5 of the Government's motion, "Damn
19 it. I oughta kill him because he ought not to be on my goddamn
20 property with a fucking gun in my fucking face." Remember, the
21 defendant has authorized in all of his crop insurance policies
22 the right of USDA-OIG agents to be there to inspect his crops
23 and review his record to ensure the integrity of the program
24 and that he's not committing fraud.

25 Mr. Canady talks about the day that they executed the

1 search warrant, Page 6 of the Government's motion. Mr. Canady
2 said, "But I'm gonna tell you. I'm gonna tell you what. That
3 morning, somebody -- I should have been dead. I really, really
4 should have been dead because I would have never let nobody
5 just come in on my property like that. I should have killed
6 the man driving that first car."

7 He goes on in the February 21, 2012 consensually
8 monitored call and he says to the cooperating witness, "Because
9 I'm gonna kill him if he ever comes back to my house again."
10 Cooperating witness says, "Well, you need to be careful. Don't
11 do nothing you ain't going to be" -- Mr. Canady, "He's got to
12 kill me or I gotta kill him because I think he's coming to kill
13 me." Cooperating witness, "Well" -- Mr. Canady, "Because he
14 ain't got no business on my goddamn property."

15 That is the nature and circumstances of this person,
16 how he speaks unguarded, the threats he has made to law
17 enforcement and Miles Davis, Special Agent Davis told you he
18 was concerned for his safety and that of his family.

19 With respect to whether or not the defendant poses a
20 serious risk of flight, the Government believes that the
21 defendant has concealed assets that he has hidden from this
22 Court on two separate occasions now. The defendant submitted a
23 financial affidavit for court-appointed counsel in connection
24 with a 2010 target letter. Upon information and belief, the
25 defendant declared his assets, declared his rental income to be

1 \$1500 a month in that September 13, 2010 affidavit and listed
2 mobile homes valued at \$80,000. Forty-five days later, in
3 Government's Exhibit 4, which has been presented to the Court,
4 he lists 42 mobile homes as his assets. He lists gross rental
5 incomes alone of nearly 192,000 and a total net worth of 1.7
6 million. Four months later while he's enjoying the benefits of
7 court-appointed counsel, he gets another financial affidavit,
8 again declaring 42 mobile homes, as Government's Exhibit 5,
9 declares his total assets to be over 2.5 million and gross
10 rental income of \$192,000.

11 In these Cape Fear Farm records, Your Honor, he tells
12 Cape Fear Farm that he collects this money in cash. It's
13 mostly in cash, getting \$400 a month for 42 mobile homes.
14 That's \$20,000 a month. In January of 2012, this year,
15 Government's Exhibit 6, he declares gross income from these
16 rental properties of \$168,000 for last year alone, I guess up
17 until then. Now maybe ten aren't rented. So you negate, you
18 know, a fourth of that. It still leaves \$15,000 worth of cash
19 unaccounted for every month. Bank records have been reviewed.
20 There are no significant cash deposits into the bank account
21 records. There is some rental income declared.

22 So the Government doesn't know -- the Government does
23 not see in the information it has where this money is going.
24 The defendant has access to the money, has had access to it.
25 It's cash. It's easily, it's easily concealed. He has alleged

1 in the forfeiture provision to have, to have gained over a
2 million in criminal proceeds.

3 So the position of the Government is based upon all of
4 the charges he's facing and the severity of the offenses that
5 he's facing. He poses a serious risk 'cause now he can flee
6 and we don't have any way to know where his assets are. He's
7 concealed them from the Court. Just last week, I understand,
8 he submitted a financial affidavit with the Court and it's my
9 understanding that that financial affidavit, as reflected in
10 the Pretrial Services report, he again lists his total assets
11 to be \$265,000. Exhibit 6, Your Honor, shows \$2.8 million in
12 assets. He lists rental income of only 100, \$1500, again.
13 It's got, Exhibit 6, \$168,000 in gross rental income.

14 So he's -- he's not -- and he chose not to provide his
15 financial information to Probation. And it says in Employment
16 History, "Canady did not provide any information regarding his
17 annual earnings." He -- the information that Probation has in
18 this report, Your Honor, is based on the affidavit he completed
19 last week and that affidavit, the Government believes, is false
20 based on what he has submitted to Cape Fear Farm Credit, but
21 what the Cape Fear Farm Credit reports, balance sheets, signed
22 under penalty of perjury show this Court is that the defendant
23 has assets. He has the ability to flee.

24 What is also noted is that he doesn't have a passport,
25 yet he's been able to leave the country. He's gone to the

1 Bahamas on two separate occasions. So he's left the
2 Continental U.S. without a passport. I'm not sure how he
3 managed that, but he can do it.

4 And again, going back to danger to the community,
5 you've heard the threats. Here is a defendant, who, in
6 November of 2010, firearms were removed by law enforcement. He
7 was not in any way dissuaded from keeping weapons. He kept
8 that gun. He kept that gun underneath his bed and it was found
9 when law enforcement executed the arrest last week, Your Honor.

10 So the Government submits to the Court based upon all
11 of these factors, all of these facts, that there is no
12 condition or combination of conditions which can assure the
13 safety of the community and others, as well as assure the,
14 ensure the appearance of the defendant.

15 One thing I did leave out is Special Agent Davis
16 interviewed one of the daughters. The daughter says she's,
17 she's in fear of, for her life every day with the defendant.
18 There are other witnesses who have told the Government that
19 he's dangerous and you can see, you can evaluate his
20 dangerousness based upon his own words, the way he talks, what
21 he threatens to do, and his ability to do them, Your Honor.

22 And so the Government would submit that anything short
23 of incarceration, pre-trial detention would allow this
24 defendant to destroy, conceal, or otherwise obstruct the
25 criminal case.

1 THE COURT: Thank you, ma'am.

2 Mr. Neyhart?

3 MR. NEYHART: I'm not sure quite where to begin, but
4 initially, I'd like to clarify two things. First, I believe
5 the probation officer will confirm that while Mr. Canady, I
6 believe, was starting in the process of, of an affidavit, when
7 it was realized that I was representing him on, on, basically,
8 the target letter, I believe no affidavit was completed or
9 submitted in 2012. And, and I believe the information there
10 was not based on a fresh affidavit, but, but the original
11 affidavit in 2010.

12 THE COURT: And let me just note for the record that
13 affidavit's at Docket Entry 2.

14 You may continue, sir.

15 MR. NEYHART: The Government goes to a great length to
16 talk about Mr. Canady being a risk of flight and, and having
17 the opportunity to somehow impede or destroy evidence, although
18 I don't believe there's been any evidence of, of that going on.

19 And it -- if any defendant has ever had strong ties to
20 the community, it'd be Mr. Canady. He's been there all his
21 life. He's a prominent famer. He's -- in fact, at -- at the
22 beginning -- when I was initially appointed on a target letter
23 I think he had something like 1500 acres under production.
24 Since then, you know, this has had a large negative impact on
25 his farming operations and I believe this year he's down to

1 500, but I don't know if you have any relatives who are
2 farmers, but he, he has crops in the ground. He's got about
3 two-thirds of a bean crop planted and he's, if he's not able to
4 get back to his property, there will be a lot of economic waste
5 with respect to that and also, I believe, a tomato hothouse and
6 a pretty sizable watermelon patch.

7 But, you know, Mr. Canady got a target letter in 2010.
8 He didn't, he didn't take any steps then to flee. He knew the
9 Federal Government was investigating. We had, I think, the
10 total of either three meetings, one of which, the last of which
11 was with the prosecutor where he, he came to this building and
12 talked about his case and tried to present his, his view of
13 the, of the documents and figures and the firearms that the
14 Government was talking about. He didn't flee after any of
15 those. He didn't flee after the Government executed a search
16 warrant on his property and which would result in, you know,
17 another likely charge, which he has now been indicted for. In
18 all that time he stayed where he was, kept farming. Only, only
19 difference was he stopped using the, anything to do with the
20 Government and he's just farming his land straight up without
21 any insurance.

22 So to say Mr. Canady is a risk of flight, I think, is,
23 is, is stretching. He, he personally has never, never tried to
24 do anything other than stay at his home where, very near where
25 his parents were. He has very strong ties to the land and the

1 community and I don't, I don't believe it's fair to say that
2 he's a risk of flight.

3 THE COURT: Well, the factors that -- and I haven't
4 resolved the issue in my mind -- but --

5 MR. NEYHART: Right.

6 THE COURT: -- I'm interested in your comments -- the
7 factors in the case, in this case that jump out --

8 MR. NEYHART: Uh-huh. (Indicating an affirmative
9 response)

10 THE COURT: -- are that he's not a young man --

11 MR. NEYHART: Uh-huh. (Indicating an affirmative
12 response)

13 THE COURT: -- and while he didn't flee after the
14 target letter, he hadn't been indicted --

15 MR. NEYHART: Uh-huh. (Indicating an affirmative
16 response)

17 THE COURT: -- and he is now indicted and this is a
18 very substantial indictment --

19 MR. NEYHART: Uh-huh. (Indicating an affirmative
20 response)

21 THE COURT: -- that carries a prison term, the maximum
22 terms -- and not, not, not addressing the issue of guidelines
23 and --

24 MR. NEYHART: Right.

25 THE COURT: -- or actual sentence -- but certainly the

1 maximum penalties could keep him in jail easily for the rest of
2 his life.

3 MR. NEYHART: Right. Well --

4 THE COURT: And that combination of circumstances
5 gives anybody at least an incentive to flee.

6 MR. NEYHART: Right. I, I personally think
7 Mr. Canady's incentive is to try to, to clear his name, at
8 least, you know, his attitude towards me has, has been in that
9 direction. And I don't -- and -- and he -- the fact that
10 he's --

11 THE COURT: And I think some folks --

12 MR. NEYHART: -- an older man kinda cuts both ways,
13 you know. This is his, this is his home. He's been there all
14 of his life and he's, you know, 60 plus years, you know,
15 attached to the ground in one area. It's extremely hard work,
16 especially an older farmer, to, to give up.

17 So I, I would --

18 THE COURT: I understand.

19 MR. NEYHART: -- say that on the flight issue.

20 With respect to a danger to the community -- and I
21 would first like to convey at Mr. Canady's request his, his
22 apology to Agent Miles for the statements that are reflected
23 here in the Government's motion. And I would respectfully
24 argue there's a difference between someone who's maybe been
25 drinking and running his mouth versus an intentional, direct

1 threat to a Government, to go after a Government agent. And
2 even in the, you know, the statement with the language we have
3 here, it's all focused on someone coming on his property with
4 guns and I'd like to talk a little bit about the context of his
5 over-extreme reaction to that and, and these, these statements
6 here.

7 The area is not a safe area and Mr. Canady has also
8 had an experience with, I think, a fake SBI agent coming on
9 flashing a badge and, and then a little while later, something
10 was ripped off by the fake SBI agent and he's expressed that to
11 me.

12 The act of coming onto someone's land with guns drawn,
13 for him personally, is something he has a very extreme fear and
14 a violent -- I don't know if "reaction" is the right word --
15 but aversion to, is probably the better. And that was
16 triggered in this case. There's been -- even in his
17 statements, he doesn't talk about going out of his way to
18 impede or retaliate for an investigation. And, you know, these
19 are very serious statements and I know the Court takes them
20 very seriously, but I don't think that in context -- first of
21 all, I don't think they -- because they were not intended to be
22 communicated to Mr., Mr. Davis -- I don't think they're actual,
23 you know, threats and I think it was more in the context of
24 someone who may have been drinking and running his mouth versus
25 someone who's actually going to make good on them. And that

1 would be Mr. Canady's position with respect to that.

2 And, and again, he does not have, he does not have a
3 record of selling drugs or other violent acts. He's not been
4 prosecuted for anything since 1997, which was the tragic
5 accident with respect to his brother.

6 So this is not a, as Your Honor pointed out, this is
7 not a presumption case. I do believe there is a combination of
8 circumstances and, and conditions that would allow Mr. Canady
9 to, to go home to take care of his business and come back and,
10 and address these charges.

11 And I think that with respect to the third-party
12 custodian, it was -- we weren't in our short time able to
13 identify another third-party custodian. If that becomes the
14 issue, I, I'd respectfully request additional time to locate
15 another third-party custodian if you don't believe Mrs. Canady
16 is appropriate.

17 THE COURT: Well, I intend to rule on the motion today
18 and the statute, of course, provides a mechanism if the Court
19 does not allow release for the defendant to seek a reopening of
20 the motion.

21 MR. NEYHART: Uh-huh. (Indicating an affirmative
22 response)

23 THE COURT: Ms. Rangarajan, any closing thoughts?

24 MS. RANGARAJAN: Your Honor, I just wanted to note for
25 the Court by way of proffer that when the officers went to

1 conduct the search warrant they were in marked patrol cars.
2 They all had their vests on. They had blue lights. I mean,
3 they were identified as federal law enforcement agencies. They
4 also had the local deputies with them.

5 So there was no doubt in anyone's mind and there
6 surely was no doubt in Mr. Canady's mind that it was law
7 enforcement that was approaching. The same thing when he was
8 arrested last week. They were in full gear, Your Honor. So to
9 say that he didn't know they were agents or didn't think they
10 were law enforcement, I don't think the facts of the arrest or
11 the warrant would support that.

12 THE COURT: Very good.

13 I'm going to take a few minutes to consider this
14 matter. We'll take a brief recess.

15 COURT SECURITY OFFICER: All rise. Court will be in a
16 brief recess.

17 (Recess from 2:17 p.m., until 2:37 p.m.)

18 (Call to Order of the Court)

19 THE COURT: Before I announce my ruling on the
20 detention motion, let me mention a couple of housekeeping
21 things.

22 I will schedule a hearing on the issue of whether the
23 defendant still qualifies for appointed counsel where we can
24 focus on that issue separately outside the context of another
25 pending motion.

1 So I'm very much aware of that issue and I will set,
2 enter an order setting a hearing on that issue. Because I do
3 believe the record that's been developed so far does raise an
4 issue as to whether the defendant remains entitled, whether he
5 was ever entitled, frankly, to appointment of counsel.

6 MS. RANGARAJAN: Your Honor, with respect to the, the
7 date that that is calendared for --

8 THE COURT: Yes, ma'am.

9 MS. RANGARAJAN: -- I will be out of the office
10 starting tomorrow through the morning of July 9th.

11 THE COURT: Okay.

12 MS. RANGARAJAN: Obviously, anyone in our office would
13 be prepared, but since I am intimately familiar with the facts
14 of this case I would prefer to be the one handling that
15 hearing, if at all possible, Your Honor.

16 THE COURT: Well, Mr. Neyhart remains, until the Court
17 takes some action, Mr. Neyhart remains defendant's counsel.

18 So, Mr. Canady, that will not affect -- there'll be no
19 -- I, I intend there to be no gap in your having access to a
20 lawyer. And I'm not trying to prejudge the outcome of, of that
21 issue, just I do want to assure you you're not going to have --
22 the Court will do everything to make sure there's no gap. You
23 will not have a gap -- I can tell you that -- in your
24 representation.

25 So even if we accommodate Ms. Rangarajan's schedule --

1 And you're, you're returning?

2 MS. RANGARAJAN: July 9th, Your Honor.

3 THE COURT: July 9th, okay.

4 MS. RANGARAJAN: So if it could be a day after that,
5 that would be great.

6 THE COURT: I'll do my best to accommodate that.

7 Then there was some discussion of whether the
8 defendant completed an affidavit in connection with the
9 Pretrial Services report. He, in fact, did. I have it in
10 front of me. I'm going to direct that it be filed with the
11 Court under seal. And I, I don't know the ultimate disposition
12 of this document, but it is -- it is a document -- it is a
13 financial affidavit that was signed by the defendant.

14 So I think we need to preserve it as evidence for
15 whatever use there may be of it down the line.

16 Now with respect to the, the main issue before us
17 today, that is, the Government's motion for detention, I'm
18 going to be entering a written order on this, but I will take a
19 moment to announce my ruling here.

20 Based on the record that has been developed before me,
21 I believe the law requires me to allow the Government's motion.

22 I do so finding that the Government has shown by clear
23 and convincing evidence that there's no condition or
24 combination of conditions that will reasonably assure the
25 safety of any other person and the community and that by a

1 preponderance of the evidence there's no condition or
2 combination of conditions that will reasonably assure the
3 appearance of the defendant, as required.

4 Mr. Canady, my ruling does not affect the presumption
5 of innocence which you will continue to enjoy at the trial in
6 your case.

7 On a motion such as this, the Court is required to
8 consider certain sets of factors. I have considered those
9 factors.

10 One is the weight of the evidence. I believe the
11 Government has shown that it has a strong case against you.

12 I'm required to consider the nature and circumstances
13 of the offense. This is an unusual case in which the, the
14 majority of the charges relate to what I would refer to as, I
15 think known in the vernacular, as white collar crimes. While
16 those can be serious -- and I don't mean to minimize the danger
17 that they can present to the community -- typically, there's a
18 fairly high release rate in those types of cases.

19 What changes the circumstances here are, among other
20 things, primarily, the threats made to agents. I've considered
21 the context in which those threats, I'm referring specifically
22 the initial threat that was made -- and I do consider it a
23 threat -- to, I believe it was Agent Moles, if I have his name
24 correct, Doles -- excuse me -- the statement that you were
25 going to go get your gun and then the threats made in the

1 recorded calls.

2 I've considered the, I've considered the arguments by
3 your counsel, ably presented, that the context of those calls
4 needs to be considered. I've considered it. The Court's not
5 willing to put agents in the position of potentially being
6 killed. You possessed a firearm after several occasions,
7 multiple firearms, when you knew you were a prohibited person.
8 The law assumes you knew you're a prohibited person.

9 Authorities came and seized those guns and yet you continued to
10 possess a gun. You met Agent Doles in the possession of a gun,
11 with the possession of a gun.

12 The fact that you made -- there's no evidence that you
13 were intoxicated during these calls, by the way. But that's
14 really not much of a defense because you might be intoxicated
15 when agents happen to come on your property and your statements
16 indicate that they need to be fearful of their life if they
17 happen to come on your property. It's natural for them to come
18 on your property with guns drawn, it would seem to me. That's
19 not unreasonable under the circumstances in light of these
20 threats and I know of no condition that can address that,
21 frankly. And it's a, it's a tragedy that a case like this
22 would take a turn of this character, but we are where we are
23 with it.

24 I have considered your prior felony conviction.
25 Obviously, not just the unlawful possession aspect of it, but

1 that, that does suggest a propensity towards violent conduct.
2 There's, there's other evidence of impulsive, violent conduct.
3 That, combined with abuse of alcohol, is a very dangerous
4 mixture, particularly when a lot of the, the hostility is
5 directed towards law enforcement. It's a very dangerous
6 situation and I, I really know of no conditions that would
7 adequately control that.

8 I'm required to consider your history and
9 characteristics, sir. I've touched on that, the manslaughter
10 conviction.

11 I've considered your tenure in the community. All the
12 -- obviously, you've been a very productive member of the
13 community operating a very successful business, apparently.
14 I've considered all that, but these, these other factors for
15 the issue, the narrow issue that's before me, I believe
16 requires that you be held in custody.

17 I've touched on the nature and seriousness of the
18 danger posed by your release. I think it would put law
19 enforcement, in particular, in grave danger.

20 The third-party custodianship, I really, is not
21 suitable. The one that was proposed is not suitable. I'm not
22 sure any -- any could be -- any would exist that would be
23 suitable, sufficient, that is, to address the risk that is
24 presented here.

25 As I say, I will be entering an written order.

1 Ms. Rangarajan, is there anything further at this time
2 on behalf of the Government?

3 MS. RANGARAJAN: Nothing further from the Government,
4 Your Honor.

5 THE COURT: Mr. Neyhart, sir, anything further on
6 behalf of your client at this time?

7 MR. NEYHART: Nothing at this time, Your Honor.

8 THE COURT: Very good. Thank you, sir.

9 I remand the defendant to the custody of the Marshal.

10 We'll be in recess.

11 COURT SECURITY OFFICER: All rise. This Honorable
12 Court will be in recess.

13 (Proceedings concluded at 2:45 p.m.)

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CERTIFICATE

18 I, court approved transcriber, certify that the
19 foregoing is a correct transcript from the official electronic
20 sound recording of the proceedings in the above-entitled
21 matter.

22 /s/ Janice Russell

July 26, 2012

23 Janice Russell, Transcriber

Date

24

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